Pre-Employment Inquiries

Guidelines

UNDER THE PROVISIONS OF
THE MANITOBA HUMAN RIGHTS CODE FOR
**EMPLOYERS, PERSONNEL DEPARTMENTS,
EMPLOYMENT AGENCIES**

THE MANITOBA
HUMAN RIGHTS
COMMISSION

LA COMMISSION DES
DROITS DE LA PERSONNE
DU MANITOBA

100-05471/

Guidelines: Pre-Employment Inquiries

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Guidelines: Pre-Employment Inquiries

Preface

These Guidelines, originally based on **The Human Rights Act**, have now been revised to reflect the provisions of **The Human Rights Code** which was proclaimed on December 10, 1987. Persons in receipt of earlier versions are advised to discard them and refer to this revised edition for more accurate, up-to-date reference on pre-employment guidelines.

Introduction

> "Human rights legislation is intended to give rise, amongst other things, to individual rights of vital importance, rights capable of enforcement, in the final analysis, in a court of law. I recognize that in the construction of such legislation the words of the Act must be given their plain meaning, but it is equally important that the rights enunciated be given their full recognition and effect. We should not search for ways and means to minimize those rights and to enfeeble their proper impact. Although it may seem commonplace, it may be wise to remind ourselves of the statutory guidance given by the federal **Interpretation Act** which asserts that statutes are deemed to be remedial and are thus to be given such fair, large and liberal interpretation as will best ensure that their objects are attained."
>
> Chief Justice Dickson in *Canadian National Railway v. Canadian Human Rights Commission et al.* June 25, 1987

Manitobans have had statutory protection from discrimination in employment since 1970, when **The Human Rights Act** was first proclaimed.

The **Human Rights Code** (which replaced **The Act)** applies to all aspects of employment including

- recruitment practices such as advertising, application forms, job interviews and job orders
- working conditions, including fringe benefits, wages, lay offs, suspensions, dress codes, employee benefit plans, training, and seniority
- promotions
- dismissals
- employment agency referrals

The Code prohibits unreasonable discrimination in such activities on the basis of actual or perceived group characteristics such as:

(a) ancestry, including colour and perceived race;
(b) nationality or national origin;
(c) religion or creed, or religious belief, religious association or religious activity;
(d) ethnic background or origin;
(e) age;
(f) sex, including pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
(g) gender-determined characteristics or circumstances other than those included in clause (f);
(h) sexual orientation;
(i) marital or family status;
(j) source of income;
(k) political belief, political association or political activity;
(l) physical or mental disability or related characteristics or circumstances, including reliance on a dog guide or other animal assistant, a wheelchair or any other remedial appliance or device.

Purpose

Employment application forms and pre-employment interviews are generally screening instruments for eliminating, at the earlier stages, unqualified persons from consideration for employment. Such gathering of facts about a prospective employee is an important part of recruitment and selection procedures. However, some of the information traditionally requested is not always relevant to job performance and may also be used to restrict or deny employment opportunities for certain groups of people. The Manitoba **Human Rights Code** prohibits the discriminatory denial of employment opportunities, whether inadvertent or intentional. It is important, therefore, to understand the limitations imposed by the legislation, and to know how to frame one's inquiries to generate the information genuinely required.

These guidelines are intended to assist employers in the process of recruiting and interviewing prospective employees. The Commission hopes that employers will benefit

from a greater awareness and understanding of the provisions of **The Code** in their efforts to ensure that actual or perceived discrimination is eliminated from their employment practices.

General Principles

To ensure equality of opportunity, application forms and interviews should be designed so as to select persons on the basis of:

- bona fide (genuine) qualifications relevant to job performance
- individual merit rather than group generalizations or stereotypes

Employers who evaluate applicants for employment or promotion on the basis of such considerations only, and who take steps to ensure that such decisions are not influenced by stereotypes or assumptions based on unrelated characteristics such as ancestry, sex, religion, etc., are much more likely to obtain the best qualified person for a position.

Where a characteristic referred to in **The Code** might be considered a necessary and reasonable requirement for the position, **The Code** provides exceptions to the general prohibitions.

What does the Code say?

Section 14 (4) says:

"No person shall use or circulate any application form for an employment or occupation, or direct any written or oral inquiry to an applicant for an employment or occupation, that

(a) expresses directly or indirectly a limitation, specification or preference as to any characteristics referred to in subsection 9 (2); or

(b) requires the applicant to furnish information concerning any characteristic referred to in subsection 9 (2);

unless the limitation, specification or preference or the requirement to furnish the information is based upon bona fide and reasonable requirements or qualifications for the employment or occupation."

Section 14 (13) defines employment or occupation as:

"(a) work that is actual or potential, full-time or part-time, permanent, seasonal or casual, and paid or unpaid; and

(b) work performed for another person under a contract either with the worker or with another person respecting the worker's services."

What does this mean?

It is contrary to **The Code** to request any applicant for employment to provide information which would reveal age, sex, ancestry, or other such characteristic unless the information is necessary to determine whether the applicant has the specific skills and abilities required to carry out the essential duties of the job. Application forms or inquiries which directly or indirectly indicate that one or more of these characteristics will be considered when making a hiring decision are also prohibited unless the characteristic is a "reasonable and bona fide requirement or qualification".

Applicants should not be encouraged to volunteer information which is forbidden by law, on application forms, resumes, or during interviews. This is in the employer's best interests. If such information is not at hand, it will be easier for the company to show that its hiring practices are non-discriminatory.

Who is responsible?

Any person (excluding entities that fall under federal jurisdiction) using or circulating employment application forms or making written or oral pre-employment inquiries in Manitoba is subject to **The Code**, including:

- Any person, whether located in the province or outside the province, who is recruiting in Manitoba.
- Any employment agency, employment service, educational institution or any person who is requested by an employer to refer candidates with or without a fee.
- Any trade union, occupational association, or employer's organization in which membership is a pre-requisite to carry on a trade, occupation or profession.
- Any firm circulating application forms for sale to employers.
- The provincial government; crown agencies; municipal government; school divisions; planning, health and social services, and hospital districts; or community council; etc.
- Any agency engaging people for unpaid or volunteer work — i.e. where an agreement as to the duties, hours to be worked, etc., to be

carried out is similar to that which exist between employee and employer.

Under **The Code**, employers may be responsible for the actions of their employees. The Commission urges employers to give instructions to their personnel officers to ensure that such employees understand fully the obligations placed upon them by **The Code**.

(Any inquiry concerning the federal government or falling within federal jurisdiction will be referred to the Canadian Human Rights Commission.)

What are my rights as an employer?

Employers have the right to define qualifications necessary for satisfactory job performance, provided that these standards are bona fide and reasonable and do not unnecessarily restrict employment opportunities for a group or class of persons identified by ancestry, nationality or national origin, ethnic background or origin, religion or creed, age, sex, gender-determined characteristics, sexual orientation, marital or family status, source of income, political belief, or physical or mental disability.

Employers have the right to obtain all the information about an applicant which is relevant to the job, provided the questions do not elicit unnecessary information concerning the above characteristics.

Employers have the right to use their discretion in selecting the most appropriately qualified person for the job based on relevant qualifications, experience and abilities.

Pre-Employment and Post-Employment Inquiries

These guidelines pertain only to inquiries made **prior** to employment. In some cases, a question may be asked **after** hiring if it is necessary for personnel purposes — e.g. photograph for identification, number of dependents for income tax purposes, age as it pertains to employee benefit plans, etc.

The Commission encourages employers to keep post-employment inquiries separate from pre-employment inquiries. Where post-employment inquiries are contained on the same form, they should be marked distinctly as "TO BE COMPLETED AFTER HIRING ONLY".

Employers are cautioned that any information obtained after hiring must not be used as a basis for subsequent discrimination in working conditions — e.g. wages, training, promotion, lay offs, employee benefit plans, etc. The Commission therefore urges employers to ensure that all employment inquiries, whether prior to or after hiring, are job-related and necessary.

1. Application Forms and Interviews:

In devising or reviewing application forms or in conducting interviews, employers should ask themselves:

- Is this information necessary to determine an applicant's competence or qualification for the job?
- Could the answers to this question have an unfair effect by screening out special groups of persons as defined by **The Code**?

The following chart indicates the kinds of questions permitted, as well as those which are prohibited, under Manitoba Human Rights legislation. The guidelines do not preclude the possibility that inquiries listed may be unlawful on more than one ground.

These guidelines do not cover all questions which can be asked of applicants. The questions listed are for illustration only and attempt to answer the questions most frequently asked concerning human rights legislation.

Inquiries Before Hiring	Lawful	Unlawful
1. Name	Previous name under which applicant has been educated or employed.	a) Inquiry into previous name for purposes other than education or employment. b) Maiden name.
2. Address	a) Present address and length of residence. b) Previous addresses in Canada.	Inquiry into foreign addresses which may indicate national origin.
3. Age	a) May ascertain if applicant is under the age of majority, or if the applicant is 16 years or under in accordance with **The Employment Standards Act**. b) Inquiry as to age after a hiring decision is made, pertaining to employee benefit plans, income tax deductions, etc.	a) Request birth certificate or baptismal record or any other such information regarding age. b) Inquiry as to whether applicant is over the age of retirement.
4. Sex		a) Any inquiry as to sex on the application form. b) Different application forms for males and females, e.g. filed separately, colour-coded, computer-coded, coded in any way.
5. Marital Status/ Family Status	a) An inquiry as to whether the applicant prefers to be addressed as Mr., Miss, Mrs., Ms. will be acceptable, provided it is clearly designated as "optional". b) "Are you willing and able to travel or be transferred to other areas of the province or country?" c) Inquiry into name and address of person to be notified in case of emergency. (As this information is only required for successful applicants, it would be better to include it with post-employment inquiries.)	a) Inquiry as to whether applicant is single, married, remarried, engaged, divorced, separated, widowed, living common-law. b) Any inquiry as to applicant's spouse, e.g. "Is spouse subject to transfer?" c) Inquiry as to number of children or dependents. d) Inquiry as to child care arrangements. e) Inquiry as to whether applicant is pregnant, on birth control, or has future childbearing plans. f) Inquiry into name and address of next of kin and his or her relationship. (This could reveal marital or family status.) g) Inquiry as to whether applicant has any relatives employed by the employer.

Inquiries Before Hiring	Lawful	Unlawful
6. Ancestry/ race or colour, Birthplace, Nationality, national origin, Ethnic background.		a) Any inquiry which would indicate race, colour, or complexion, including colour of eyes, hair or skin. b) Any inquiry as to birthplace. c) Applicant's nationality, or nationality of parents, grandparents, relatives, or spouse. d) Any other inquiry as to ethnic or national origin, e.g. birth certificate, mother tongue.
7. Citizenship	"Are you legally entitled to work in Canada?"	Any inquiry into citizenship which would tend to divulge applicant's nationality, ethnic or national origin.
8. Military Service	Inquiry into Canadian military service.	Inquiry into all military service.
9. Languages	Inquiry into which languages applicant speaks, reads or writes.	a) Mother tongue. b) How and where language skills were attained.
10. Photo-graphs	May be required after hiring for identification purposes.	Request photograph (this could reveal applicant's age, sex, or ancestry, etc.)
11. Religion	a) Inquiry as to willingness to work shifts or required work schedule. b) Inquiry after hiring about religion to determine when leave of absence might be required for religious observances.	a) Inquiry as to willingness or availability to work on a specific religious holiday. b) Any inquiry that may reveal religious denomination, affiliation, or preference. c) Church attended, religious holidays, customs observed or religious dress. d) Request reference or recommendation from pastor, priest, minister, rabbi or other religious leader.
12. Political Belief		Any inquiry as to political belief, affiliation or preference.
13. Education	Inquiry into what academic, professional, vocational or technical schools attended, nature and level of education received.	Any inquiry pertaining to the dates of graduation from elementary or high schools (this may reveal the age of the applicant.)

Inquiries Before Hiring	Lawful	Unlawful
14. Previous Experience	Inquiry as to previous work experience.	Requiring "Canadian experience" is considered to be discriminatory on the grounds of racial or ethnic origin.
15. Physical or Mental Disability **Note:** While an inquiry into any physical or mental disability or health problems affecting employment "generally" will not be considered unlawful, the alternatives suggested above are preferable. This is to discourage applicants from volunteering information on disabilities which may not be relevant to the jobs applied for and could possibly be used to discriminate.	a) Inquiry as to whether applicant has any physical or mental disabilities or health problems affecting the position applied for. b) Inquiry as to any physical or mental disabilities or health problems that applicant wishes to be taken into consideration when determining job placement.	a) Request that applicant list all physical or mental disabilities or health problems. (This would tend to divulge disabilities or health conditions which are not necessarily relevant to job performance.) b) Any inquiry regarding physical or mental disabilities or health problems not necessary to determine ability to perform the duties of the position.
16. Medical Information **Note:** Medical inquiries may be made after employment has commenced for purposes of insurance and employee benefit packages, etc. A medical examination should not be required unless an applicant has been given a conditional offer of employment. Where the examination reveals that a medical condition exists	Medical inquiries may solicit information which would be otherwise prohibited if such information is necessary to determine physical fitness for the job.	a) It is unlawful for the employer to make prohibited inquiries in the context of soliciting medical information on application form or during an interview. b) Any medical or health inquiry by an employer which may reveal applicant's sex, marital status, family status, or other prohibited grounds, e.g. number of pregnancies; date(s) of delivery; method of birth control; nature of menstrual periods; number of dependents, etc.

Inquiries Before Hiring	Lawful	Unlawful
which would prevent the satisfactory performance of the job duties, the offer may be withdrawn.		
17. Organizations	Inquiry into membership in any organization, with the qualification that applicant is not required to list any clubs or organizations that indicate ancestry, nationality or national origin, ethnic background or origin, religion or creed, age, sex, gender-determined characteristics, sexual orientation, marital or family status, source of income, political belief, or physical or mental disability.	Request that applicant list all clubs or organizations to which they belong.
18. References	a) Request from references information pertinent to job performance, e.g. work experience, ability, character. b) Inquiry as to who referred applicant for a particular position.	Any inquiry from a reference which would reveal applicant's ancestry, nationality or national origin, ethnic background or origin, religion or creed, age, sex, gender-determined characteristics, sexual orientation, marital or family status, source of income, political belief, or physical or mental disability.

2. Resumes

Whenever possible, employers should actively discourage candidates from volunteering information on resumes that is otherwise prohibited on application forms or through oral interviews.

Professional resume and counselling services should caution candidates to refrain from volunteering information on resumes that is prohibited to employers.

3. "Optional" Inquiries

Except as noted in item 5 (a) of the previous chart, prohibited inquiries marked "optional" will be considered contrary to **The Code** for the purpose of accepting complaints. Such inquiries may coerce an applicant to answer questions for fear of jeopardizing his/her application, or of being placed at a competitive disadvantage with another applicant who supplies the information.

If the answer to an "optional" question is not required to assist in the selection or hiring decision, then such question should be omitted entirely or asked only after the hiring decision has been made.

Exceptions

The Manitoba **Human Rights Code** does not prohibit consideration of group characteristics in **all** employment-related decisions. There are exceptions to the general prohibition against discrimination.

1. Bona Fide and Reasonable Occupational Qualifications or Requirements:

The Code prohibits discrimination in employment **unless** it is based on "bona fide and reasonable requirements or qualifications for the employment or occupation".

This means that, where it can be demonstrated that the presence or absence of one or more group characteristics (such as sex, age, marital or family status, physical or mental disability, or political belief) is an essential requirement to perform the job, inquiries related to the group characteristic would be permitted, and hiring decisions based on such factors would not contravene **The Code**. **However, there must be a factual basis for believing that virtually all members of the excluded group would be unable to perform the duties of the job involved.**

The following are recognized as examples of requirements which may be considered to be bona fide and reasonable:

(a) where a group characteristic is necessary for the purpose of authenticity or genuineness:
- a male to model masculine apparel: inquiry as to sex permitted
- a female actor to play a female role: inquiry as to sex permitted
- a senior citizen as a "grandfriend": inquiry as to age permitted.

(b) where public decency demands that one group be given preference over another in performing a particular function:
- a female masseuse to work at a women's health club: inquiry as to sex permitted
- a male to work as an attendant in a men's washroom: inquiry as to sex permitted.

(c) where membership in a group is a reflection of a required value system:
- a party member for Executive Secretary of a particular political party: inquiry as to political belief permitted
- a member of a particular religion as a preacher or minister: inquiry as to religion permitted.

(d) where the presence or absence of a group characteristic is necessary to ensure the safety of persons other than the applicant:
- a person who is free of any condition which would impair concentration or alertness as an air traffic controller: appropriate inquiries regarding physical and mental condition permitted.

(e) where the presence or absence of a characteristic may preclude the person from satisfactorily performing the duties of the job:
- a person with no serious speech impediment for a position as a radio announcer: inquiries about speech impediments permitted
- persons who are able to meet appropriate standards of strength and fitness as fire fighters: relevant inquiries regarding physical condition permitted.

The following are examples of distinctions which are not based on bona fide and reasonable requirements:

(a) excluding groups from employment because of stereotyped generalizations:
- "men are less capable of assembling intricate equipment than women"
- "married persons are not suitable for jobs which require travel or transfers"
- "physically or mentally disabled people can only work in sheltered workshop settings".

(b) excluding groups because of the prejudicial preferences of co-workers, clients or customers:
- "my customers might object to being served by a black salesclerk or pregnant woman"
- "male employees might object to having a female supervisor"
- "physically or mentally disabled people might make my customers/clients feel uncomfortable".

(c) excluding members of a group because the employer may have to make some accommodation with respect to facilities, equipment, duties, etc.:
- refusing to hire women for construction camps in remote areas of Manitoba because facilities may require adjustment or expansion
- refusing to hire a person with limited mobility because it would be necessary to reorganize the work space or make some incidental assignment changes
- refusing to hire members of a particular religion who may require some adjustment to work schedules in order to accommodate religious holidays.

The onus is on the employer to reasonably accommodate the special needs of employees if those needs are based on any of the characteristics referred to in **The Code** unless the accommodation would pose undue hardship on the employer.

A convenient test to determine whether the

exclusion or requirement is bona fide and reasonable would be to ask if a person from the excluded group could do the job. If the answer is "yes", then the exclusion is probably not warranted.

2. Age of Majority:

Section 14 (10) says:

"Nothing in this section prevents a person from limiting the employment or occupation of a person under the age of majority, or from classifying or referring to a person under the age of majority for an employment or occupation, in accordance with a statute in force in Manitoba that regulates the employment or occupation of persons under the age of majority."

The prohibition against age discrimination does not apply to certain occupations that are restricted by law to persons over the age of majority:

e.g.
- store clerk for liquor store or restaurant personnel who serve liquor — "Are you 18 years or over?" — is permitted
- chauffeur requested for emergency vehicle driving — "Are you 18 years or over?" — is permitted.

The Commission accepts and investigates complaints of discrimination on the basis of age by persons under the age of majority, provided that Section 14 (10) of **The Human Rights Code** does not apply.

Age alone would not be a bona fide reason to refuse to consider a person under sixteen if the applicant has indicated an intention to obtain the proper work permit.

3. Special Programs:

Section 11 says:

"Notwithstanding any other provisions of this Code, it is not discrimination, a contravention of this Code, or an offence under this Code,

(a) to make reasonable accommodation for the special needs of an individual or group, if those special needs are based on any characteristics referred to in subsection 9 (2); or

(b) to plan, advertise, adopt or implement an affirmative action program or other special program that

(i) has as its object the amelioration of conditions of disadvantaged individuals or groups, including those who are disadvantaged because of any characteristics referred to in subsection 9 (2), and

(ii) achieves or is reasonably likely to achieve that object."

(a) **Reasonable Accommodation**

Where a complaint is filed against an employer who refused to hire an individual on the basis of a group factor or characteristic specified in **The Code**, the onus is on the employer to demonstrate that the requirement or qualification for employment or occupation is bona fide and reasonable, and that sufficient accommodation has been made or is not possible.

Where an employer requests information in a pre-employment inquiry pertaining to a specific disability that he/she considers relevant to job performance, the inquiry itself is acceptable.* However, the information should not be the basis of refusal where the employer can reasonably accommodate the applicant with a disability. Refusal would only be justified if the accommodation would impose an undue hardship on the employer. An accommodation may include:

- provision of an entrance ramp or a lowered desk surface for an employee using a wheelchair,
- provision of a braille typewriter for a blind employee,
- provision of an amplified telephone receiver for a hearing impaired employee,
- installing flashing lights on the fire alarm system or on fork-lift machinery to warn hearing impaired employees.

The provision of special equipment, the adjustment of job duties and schedules, and other such concessions to some employees and not others would not constitute unlawful discrimination when they are the result of an employer's effort to make reasonable accommodation for special needs which are based on the group characteristics mentioned in subsection 9 (2) of **The Code**.

***Note:** Employers who are concerned that an applicant's disability may interfere with the performance of the major duties of the position should discuss such concerns with the applicant. By doing so, the employer may learn that the apparent problem does not exist or is easily resolved.*

(b) **Affirmative Action/Special Programs**

Historical practices have limited the employment opportunities of minority groups by excluding them from participating in certain areas of employment. To overcome these longstanding inequalities, it may be necessary to implement various corrective measures such as:

- developing special on-the-job training programs for youth rather than relying exclusively on education and previous experience
- actively recruiting, training and promoting qualified women for upper management positions
- conducting outreach recruitment of physically disabled persons within the community

Where a special program meets the requirements of Section 11 (b), preferential treatment to groups defined by sex, ancestry, age, or other such characteristics would be permitted.

Systemic Discrimination

Section 9 (3) states:

> *"In this Code, 'discrimination' includes any act or omission that results in discrimination within the meaning of subsection (1), regardless of the form that the act or omission takes and regardless of whether the person responsible for the act or omission intended to discriminate."*

Systemic discrimination (which is usually neither overtly nor intentionally discriminatory) is difficult to detect, and is often present in institutional practices. It occurs when a seemingly neutral policy or practice has a disproportionately adverse effect on people defined by one of the group characteristics set out earlier. In such cases, the employer must be able to show that the policy or practice is reasonable and necessary to the job performance.

The application of stringent (but not demonstrably reasonable) job requirements which could be considered to systematically discriminate include:

- requiring all applicants to have a Grade 12 education when the job does not require this level of education. This could eliminate or reduce applications from Native Canadian persons or other groups who have not had equal access to educational opportunities.
- overly stringent or excessive height and weight requirements could cause the members of certain ethnic groups who are of smaller stature to be unable to compete for jobs.
- requiring all applicants to be clean-shaven and/or have their heads uncovered in order to comply with an employer's dress code.

When establishing the qualifications or requirements for a specific position, employers should take care to ensure that they are, in fact, necessary conditions for satisfactory performance.

Advisory Opinions

Recognizing that it is sometimes difficult for employers to know when a preference or requirement for a particular group characteristic would be deemed acceptable, **The Code** permits the provision of binding advisory opinions.

Where an employer believes that a characteristic, such as a specific age, the absence of a disability, a certain marital or family status, etc., is a necessary requirement for a position, he or she should consider applying to the Commission for a written advisory opinion.

Any person who is responsible for the implementation of a practice which is within the jurisdiction of **The Human Rights Code** of Manitoba can request an advisory opinion under Section 21 (1) of **The Code**.

If the Commission has stated in an advisory opinion that a practice or activity which involves some differential treatment of, or impact on, group characteristics set out in **The Code**, is not a contravention of **The Code**, and if the facts upon which the decision is based are complete and accurate, no complaint of discrimination alleging that the practice or activity is discriminatory will be acted upon by the Commission.

Any person who is unsure about whether their employment practices contravene **The Code** should contact the Manitoba Human Rights Commission for further information.

The Spirit of the Code

In addition to prohibiting specific kinds of discrimination, as outlined above, **The Manitoba Human Rights Code** also empowers the Commission to "promote the principle that all members of the human family are free and equal

in dignity and rights and entitled to be treated on the basis of their personal merits, regardless of their actual or presumed association with any group and to further the principle of equality in the exercise of civil and legal rights regardless of status". The Commission therefore encourages all employers to respect the spirit as well as the letter of the law by ensuring that:

1. All pre-employment inquiries are job-related, and
2. All applicants are selected on the basis of individual merit rather than stereotyped assumptions of any class of persons to which they belong.

The following guide is intended to assist employers who wish to make hiring practices a reflection of their good faith as equal opportunity employers. The Commission encourages employers to refrain from asking these questions in general unless the answers are relevant to a particular position. While inquiry about height and weight, criminal record, etc., may not themselves be unlawful, a denial of employment based on this information may constitute unreasonable discrimination under **The Code**. Inquiries of this kind could be used as evidence of an intention to discriminate.

Inquiries Before Hiring	**Discouraged**
1. Criminal or Conviction Record	Inquiry as to whether applicant has ever been arrested or convicted of a crime, unless this is specifically related to the requirements of the job to be done.
2. Economic Status	a) Inquiry as to whether applicant owns home, rents, or boards. b) Inquiry as to credit rating of applicant where such information is not bona fide occupational qualification. c) "Give particulars of debts, liabilities, mortgages, loans." d) "Have you ever been bankrupt?"
3. Workers' Compensation	Inquiries as to whether applicant has received or filed claim for compensation for an industrial accident or injury.
4. Personal	"Do you live with your parents? If not, with whom do you live?"
5. Language Skills	Testing or scoring an applicant in language proficiency when language skill is not a requirement of the work to be performed.
6. Physical Appearance	Inquiry as to whether applicant would be willing to conform to standards of appearance or dress code set out by employer, or inquiries about the applicant's appearance, where appearance is not relevant to job performance (e.g. hair length, etc.)
7. Height and Weight	Height and weight requirements which are not relevant to job performance and which have the effect of denying certain groups of people who tend to fall below or above requirements, e.g. because of ancestry or sex.

Summary

It is reasonable to assume that all questions on an application form or through oral interviews are asked for some purpose and that selection or hiring decisions are made on the basis of the answers given. To seek information that is not necessary to evaluate effectively a person's qualifications for employment, places the onus on the employer to show that such information is not used for discriminatory purposes as defined by **The Code**.

It is, therefore, in the employer's best interest to review all procedures used in screening applicants for employment, eliminating any that are not justified by the requirements of the job.

Employers are obliged to examine and revise employment application forms to ensure their compliance with **The Human Rights Code**. For further information, contact:

The Manitoba Human Rights Commission

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The Manitoba Human Rights Commission has prepared these guidelines to assist in the understanding and application of **The Human Rights Code** pursuant to Section 5 of **The Code**. A copy of **The Human Rights Code** may be obtained by contacting any office of the Commission.

June 1988 Revised Edition